

Ordinances and the City Code (revised 7/9/02)

Introduction

Local governments in Alaska are granted a great deal of power through the state constitution and state statutes; however, a local government must establish a set of laws called ordinances to exercise many of these powers. Local ordinances serve as the blueprint for a city or borough's activities and are, therefore, of great importance to local government officials, administrators, and the general public.

Writing Ordinances

1. What an Ordinance Is

An ordinance is a law enacted by a local government. Because ordinances may establish penalties for violations, ordinances are a major tool municipalities use in creating the kind of community desired by its residents. For example, if residents feel that loose dogs are becoming a problem in the community, they could have their municipal government adopt an ordinance to require that all dogs be tied up. The ordinance could also require the owners of dogs that are not restrained to pay a fine.

In addition to ordinances that regulate the behavior of people within the community, such as dog control or curfew ordinances, another major type of ordinance defines how a local government will operate. An example of this is an election ordinance that establishes voter qualifications, regular election times, and how the local election shall be run.

Ordinances deal only with the local government that adopted them. To be valid, an ordinance must:

- ✴ Be properly enacted by the governing body (council or assembly).
- ✴ Not conflict with or be prohibited by state or federal law.

Because ordinances determine how the municipality will be run, local government officials should know what ordinances are, how they are adopted, and how they are changed.

2. When an Ordinance is Required

Title 29 of the Alaska Statutes requires that municipalities take certain actions only by ordinance. Some common **actions required to be done by ordinance** are:

- ✴ To change the official name of a municipality ([AS 29.06.010](#)).
- ✴ To establish a method to deal with conflict of interest ([AS 29.20.010](#)).
- ✴ To establish rules of procedure and order of business for the local government body ([AS 29.20.160\(f\)](#)).
- ✴ To establish a utility board for a municipal utility ([AS 29.20.310\(a\)](#)).
- ✴ To establish method of appointment of utility board members and terms ([AS 29.20.310\(b\)](#)).
- ✴ To establish various boards and commissions ([AS 29.20.320](#)).

- ✴ To designate confidential/managerial positions exempt from classified service ([AS 29.20.410\(b\)](#)).
- ✴ To provide a method of determining salaries of elected officials ([AS 29.20.620](#)).
- ✴ To establish, alter, or abolish a municipal department ([AS 29.25.010](#)).
- ✴ To provide for a fine or other penalty, or to establish rules for violation of which a fine or other penalty is imposed ([AS 29.25.010](#)).
- ✴ To levy a tax ([AS 29.25.010](#)).
- ✴ To make appropriations, including supplemental appropriations or transfer of appropriations ([AS 29.25.010](#)).
- ✴ To grant, renew, or extend a franchise ([AS 29.25.010](#)).
- ✴ To adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map ([AS 29.25.010](#)).
- ✴ To transfer power to a borough from a city ([AS 29.25.010](#)).
- ✴ To designate the borough seat ([AS 29.25.010](#)).
- ✴ To retain or sell tax-foreclosed property ([AS 29.25.010](#)).
- ✴ To exempt contractors from compliance with bonding requirements relating to payment and performance bonds in the construction or repair of municipal public works projects ([AS 29.25.010](#) and [36.25.025](#)).
- ✴ To adopt municipal code of regulations ([AS 29.25.040](#)).
- ✴ To establish penalties for the violation of ordinances ([AS 29.25.070](#)).
- ✴ To provide for use of a hearing officer to decide enforcement of municipal penalties ([AS 29.25.072\(b\)](#)).
- ✴ To provide for nomination of candidates for elected offices ([AS 29.26.020 \(a\)](#)).
- ✴ To participate in an investment pool ([AS 29.35.015](#)).
- ✴ To exercise extraterritorial jurisdiction with approval of existing local government entity if one exists, provide protection of water supply/watershed, and address oil or other hazardous substance release that may pose a threat ([AS 29.35.020\(b\)](#)).
- ✴ For second class cities, to exercise eminent domain with voter approval ([AS 29.35.030](#)).
- ✴ To exercise powers of garbage and solid waste, require its use by the public and provide penalties for non-compliance ([AS 29.35.050](#)).
- ✴ To establish a local air quality control program ([AS 29.35.055](#)).
- ✴ To adopt regulations for granting franchises and permits to uncertified utilities ([AS 29.35.060](#)).
- ✴ To set all utility rates for privately owned utilities ([AS 29.35.070 \(c\)](#)).
- ✴ To establish a curfew for persons under 18 years old ([AS 29.35.085](#)).
- ✴ To dispose of and acquire municipal lands ([AS 29.35.090](#)).
- ✴ To restrict ownership within the home or transport of unloaded firearms upon voter approval ([AS 29.35.145](#)).
- ✴ To establish a port authority upon voter approval ([AS 29.35.605](#)).
- ✴ To dissolve a port authority ([AS 29.35.610](#)).
- ✴ To authorize a port authority to borrow and issue bonds ([AS 29.35.625](#)).
- ✴ To adopt a comprehensive plan ([AS 29.40.030](#)).
- ✴ To implement land use regulation ([AS 29.40.040](#)).
- ✴ To provide for an appeal from an administrative land use decision ([AS 29.40.050](#)).
- ✴ To adopt platting requirements ([AS 29.40.070](#)).

- * To establish a platting authority ([AS 29.40.080](#)).
- * To establish optional exemptions from municipal property taxes ([AS 29.45.050](#)).
- * To establish private airport property tax assessment ([AS 29.45.065](#)).
- * To prescribe penalties for certain tax payment violations ([AS 29.45.150](#)).
- * To establish qualifications for board of equalization membership ([AS 29.45.200](#)).
- * To establish authority to levy a property tax ([AS 29.45.250](#)).
- * To establish procedure for personal property tax liens ([AS 29.45.310](#)).
- * To provide for disposition of tax foreclosed property ([AS 29.45.460](#)).
- * To establish, alter or abolish differential tax zones ([AS 29.45.580](#)).
- * To levy sales and use taxes and establish exemptions to a sales tax ([AS 29.45.650](#), [AS 29.45.700](#)).
- * To create special assessment districts and levy and collect special assessments ([AS 29.46.020](#)).
- * To authorize issuance of special assessment bonds ([AS 29.46.140](#)).
- * To authorize General Obligation and revenue bonds ([AS 29.47.080](#) and [29.47.190](#)).
- * To authorize refunding bonds ([AS 29.47.300](#)).

In some cases **Title 29 establishes rules** or procedures **that a municipality must follow, unless it enacts an ordinance providing for different rules** or procedures. The following statutes are examples:

- * To elect council members other than on an at-large basis ([AS 29.20.130](#)).
- * To establish durational residency requirements for the governing body membership from a district ([AS 29.20.140\(b\)](#)).
- * To establish district residency requirements for the governing body membership from a district ([AS 29.20.140\(c\)](#)).
- * To limit the total terms or consecutive terms for a council member ([AS 29.20.140\(d\)](#)).
- * To establish a term of office for council members different than three years ([AS 29.20.150\(a\)](#)).
- * To establish the date terms begin for a council member if different than the first Monday following election certification ([AS 29.20.150\(c\)](#)).
- * To establish the regular meeting schedule for the council different than once a month ([AS 29.20.160\(b\)](#)).
- * To determine the manner in which vacancies occur in any elected office except mayor or school board ([AS 29.20.170](#)).
- * To determine what period of time may exist before filling a vacancy in a governing body if different than 30 days ([AS 29.20.180\(a\)](#)).
- * For boroughs and first class cities to determine a term of office for mayor different than 3 years ([AS 29.20.230\(a\)](#)).
- * For second class cities, to determine a term of office for mayor different than one year ([AS 29.20.230\(b\)](#)).
- * To establish a limit on the number of terms a mayor may serve ([AS 29.20.230\(c\)](#)).
- * To provide for election of a second class city mayor from the council by the voters ([AS 29.20.230\(d\)](#)).
- * To establish the residency requirements for mayor ([AS 29.20.240\(b\)](#)).

- ✴ To establish duties for a utility board different from those provided for by statute ([AS 29.20.310\(d\)](#)).
- ✴ To establish an alternative method for appointing a municipal clerk, attorney, treasurer or police chief if such appointments are not to be made by the chief administrator ([AS 29.20.360](#)).
- ✴ To establish the date of regular elections if different than the first Tuesday of October every year ([AS 29.26.040](#)).
- ✴ To require voter registration at a local address at least 30 days before a municipal election relating to a specific election district or service area. ([AS 29.26.050\(b\)](#))
- ✴ To establish runoff elections rules that change the requirement that a runoff election be held if no candidate receives 40% of the vote and that a runoff election be held within three weeks after the date of election certification ([AS 29.26.060](#)).
- ✴ To establish procedures other than those spelled out in statute for election contests and appeals ([AS 29.26.070](#)).
- ✴ To provide for more than five members on a first or second class borough planning commission ([AS 29.40.020](#)).
- ✴ To establish a procedure other than annual foreclosure for delinquent property tax liens ([AS 29.45.320](#)).

State law gives a municipality a lot of discretion to decide the content of ordinances. State law will, however, sometimes place a limit on that authority or discretion or require that an ordinance contain specific provisions before the authority or discretion can be exercised. A few common examples are:

- ◆ State law requires that the ordinances of any municipality must be passed according to the procedure required by [AS 29.25.020](#). Only home rule municipalities can establish different procedures.
- ◆ Emergency ordinances are allowed by [AS 29.25.030](#) but can only be effective for 60 days.
- ◆ Fines or penalties for violating ordinances are allowed by [AS 29.25.070](#); provided the fine or penalty is established by ordinance, and provided copies of the ordinance are available to the public at no more than cost, and provided the fine or penalty is not greater than \$1000 or exceeds 90 days in jail.
- ◆ A municipality may establish residency requirements for the office of mayor but [AS 29.20.240 \(b\)](#) states the requirements must be established by ordinance and cannot exceed three years. In the absence of an ordinance the mayor need only be a voter of the municipality.
- ◆ A municipality may by ordinance change the state rule at [AS 29.20.150 \(a\)](#) that says a member of a governing body serves a three-year term, but a different term cannot exceed four years and the change will not affect a person holding office when the change was approved.

There are also situations where state law requires that an ordinance passed by a governing body be submitted to the voters of the municipality for ratification. These situations are rare, but important because the ordinance is not enforceable unless it has been approved by a majority of the voters in the municipality. Some common examples include:

Ordinances and the City Code

Legal Requirements

Local Government Handbook

Dept of Community & Economic Development, Div of Community & Business Development

- ◆ Name Change: [AS 29.06.010](#) permits a municipality to change its name but only by an ordinance that has been approved by a majority of the voters.
- ◆ Term Limits. [AS 29.20.140](#). provides that a municipality can establish term limits for members of the governing body if the ordinance establishing the limits is ratified by the voters.
- ◆ Eminent Domain. [AS 29.35.030](#) provides that a second class city can exercise the power of eminent domain to take property but only if the power is authorized by an ordinance that has been approved by a majority of the voters
- ◆ Regulate Firearms. [AS 29.35.145](#) provides that a municipality can only restrict the right to own or possess firearms by an ordinance that has been approved by a majority of the voters.
- ◆ Port Authority. [AS 29.35.605\(f\)](#) provides that a municipality can only establish a port authority by an ordinance that has been approved by a majority of the voters.
- ◆ Sales and Use Taxes. [AS 29.45.670](#) provides that a sales and use tax or an increase in that rate of levy approved by ordinance cannot take effect until the ordinance has been approved by a majority of the voters.
- ◆ General Obligation Bonds. [AS 29.47.080](#) provides that a municipality may borrow money in anticipation of general obligation bond debt only after a bond authorization ordinance is approved by a majority of the voters.

There are some rare cases when state statute prohibits a municipality from passing ordinances regarding certain subjects. Some examples include:

- ◆ Discrimination: A municipality cannot pass an ordinance that allows persons to be appointed or removed from office or employment on the basis of race, color, sex, creed, national origin or political opinion or affiliation. [AS 29.20.630](#)
- ◆ Breast Feeding: A municipality cannot pass an ordinance that prohibits or restricts a woman breast-feeding a child in a public or private location. [AS 29.25.080](#).
- ◆ Expenditure of Revenues: A borough cannot pass an ordinance that would permit taxes collected on an areawide basis to be spent on non-areawide functions. [AS 29.35.110](#).

3. How to Write an Ordinance

The following steps serve as a guide for writing an ordinance.

- A) Determine the purpose of the ordinance. Usually, enacting an ordinance is in response to a specific need of the community. Carefully consider what the purpose of the ordinance is in order to develop an ordinance that meets the community's needs.
- B) List all the points that need to be covered in the ordinance. After deciding the purpose, think through all the aspects of the problem that will have to be covered.
- C) Research the different points. (1) The first item to research is the state statutes. It is possible there may already be a statute addressing the issue making a local ordinance unnecessary. It is also important to make sure state law doesn't prohibit a municipality from enacting an ordinance addressing the issue. (2) The second item to investigate is the extent of the problem within the

community. Important to this question is to decide whether the problem is real or imagined; whether the problem exists for the whole community, or just a few; and the cost of effectively enforcing the ordinance. Other municipalities are a good source of information. See if they have dealt with a similar problem through an ordinance and whether that ordinance solved the problem. If it did, you may want to adapt that ordinance to your situation. State agencies may also have sample ordinances. Check with the Department of Community and Economic Development, or other state agency such as the Department of Public Safety, or the Court System (Magistrate Coordinator). Private organizations may also be helpful, such as the Cooperative Extension Service through the University of Alaska, the Alaska Association of Municipal Clerks, and the Alaska Municipal League may have sample ordinances. Also, check Title 29 requirements, if any, on the subject.

- D) Write a first draft of the ordinance. The draft should cover each of the points identified in step 'B'. Remember that an ordinance should address only one general subject area. Use simple language that everyone will understand. If technical terms are used, you may need a definitions section.
- E) Review each sentence carefully. Does it make sense? Are there typographical errors? Is the meaning clear and not subject to misinterpretation? If the ordinance refers to a penalty, have you stated the penalty and how it will be enforced?
- F) Review the ordinance as a whole. Does your draft ordinance address all the points necessary to take care of the problem? Does it follow the requirements of form established in your "General Provisions Ordinance"? The General Provisions Ordinance, an ordinance recommended for all local governments, establishes the rules, or guidelines, for the adoption of all municipal ordinances.
- G) Prepare the title. The title of the ordinance should contain a brief summary of what the ordinance is addressing. The assigned number and the title may be used to provide the summary required for public notice.
- H) Have your municipal attorney review the final draft. Not all communities can afford to have an attorney. However, it is generally beneficial to have an attorney review your final draft, particularly if fines or imprisonment are imposed for violations of the ordinance. In the absence of an attorney, you may request the Division of Community and Business Development (DCBD) review the draft ordinance.

Severability

Definition: Portion(s) of an ordinance can be found to be flawed and therefore not capable of being defended in court without affecting the remaining sections of the ordinance. Each ordinance or the entire Code of Ordinances (discussed later in this section) should contain a severability clause in order to be protected by this safeguard.

Sec. 1.05.050 Severability of parts of code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

Ordinance Form

In recent years, many municipalities have adopted an ordinance form that includes each of the following categories:

1. SERIAL NUMBER

This is simply a number that is given to the ordinance for the purpose of identification. In other words, a serial number allows an ordinance to be referred to or identified by number.

EXAMPLE: ORDINANCE No. 01 – 3 (which means the third ordinance introduced in the year 2001). Note ordinances are generally numbered by the calendar year, not the fiscal year.

2. TITLE:

This is the title of the ordinance. The title normally summarizes the general subject matter of the ordinance or demonstrates the purpose of the ordinance. Like the serial number, the title makes the ordinance easy to be identified. The title is usually placed in all capital letters.

Example: An Ordinance Establishing Procedures for the City Council

3. Enacting Clause:

This is also known as an enabling clause. It is a point of law that simply sets the ordinance into action or motion. It tells anyone who is reviewing the ordinance that the words that follow the enacting clause are to be enacted as law (if the ordinance is adopted, that is!). The enacting clause is usually written totally in capital letters.

Example: Be it Enacted by the _____ City Council as Follows:

4. Provisions:

This refers to the breaking down or dividing of subject matter found in the body of the ordinance into units. These units are similar to paragraphs but are more similar to the sections and subsections found in Title 29. Sections are used in ordinances so that the ordinances can be read more easily and so that a particular law within the ordinance can be located more rapidly. Sections are organized by number. Often, sections are given a short title.

Example:

Section 1. Regular Council Meetings. Regular meetings of the city council shall be held on the first and last Tuesday of each month.

Section 2. Special Council Meetings. Special meetings of the city council may be held from time to time provided that public notice is given at least 24 hours in advance.

5. Key Dates

This refers to the reserving of space on the ordinance for the date that the ordinance was introduced, the date that the ordinance was read in full to the public (NOTE: an ordinance does not have to be read in full if copies are available to all persons present at the meeting ([AS 29.25.020\(b\)\(4\)](#)), and the date that the ordinance was given a public hearing. By doing this, the key dates concerning adoption of the ordinance (or failure) are permanently recorded on the ordinance in case the legality of the ordinance is questioned in the future.

Example: Introduction: _____
(date)

PUBLIC HEARING: _____
(date)

6. Date of Passage:

This is the date that the ordinance (if adopted) was passed. If your municipal code provides that the ordinance becomes effective 24 hours after adoption, then 24 hours after the date of passage the ordinance becomes law.

Example: Passed and Approved by the _____ City Council this _____ day of _____, 20____

7. Signatures:

Each ordinance should have space reserved for the signatures of both the mayor and the municipal clerk. The mayor signs all official documents including ordinances. The clerk's signature "attests" or witnesses that the mayor (and not somebody else) has signed the ordinance.

Example: _____
Mayor

Attest: _____
City Clerk

Notice of Public Hearing

The City Council of Sand Point shall consider a proposed sales tax ordinance at its next regular meeting on December 8, 2000, at the City Council Chambers at 7:30 p.m. All interested in commenting on the proposed ordinance should attend. A summary of major points of the ordinance are summarized below:

SECTION 1. From and after the First day of June 2001, there shall be levied and collected a tax on retail sales and services made within the City of Sand Point equal to three percent (3%) of the selling price and/or changes made.

SECTION 2. The tax levied hereunder shall be paid by the buyer or consumer to the seller, and it shall be the duty of each seller to collect from the buyer or consumer the full amount of the tax payable in respect to each taxable sale or service at the time of sale or at the time of collection with respect to credit transactions.

SECTION 3. Any seller who willfully or intentionally fails, neglects, or refuses to collect the tax imposed by this Ordinance; or fails, neglects, or refuses to comply with the provisions of this Ordinance; or remits or rebates to a buyer or consumer, either directly or indirectly or by whatever means, all or any part of the tax levied hereunder; or makes in any form of advertising, verbally or otherwise, any statement which indicates or infers that he is absorbing the tax or paying the tax for the buyer or consumer or user by any adjustment or prices or at a price including the tax; or in any manner whatsoever, shall be guilty of a misdemeanor, and on conviction thereof shall be punished in the manner thereafter provided.

SECTION 4. Any person, firm, co-partnership or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) or more than One Hundred Fifty Dollars (\$150.00); and upon conviction of a second or subsequent offense shall be fined not less than One Hundred Fifty Dollars (\$150.00) or more than Three Hundred Dollars (\$300.00) or imprisoned in the City Jail not more than thirty (30) days, or both, such fine and imprisonment at the discretion of the City Magistrate, and shall pay the costs of prosecution.

Complete copies of the ordinance are available from the City Clerk's Office at the City Building between 8:00 a.m. and 5:00 p.m. weekdays.

Date of Notice 11/16/01

Attested by: _____
City Clerk

Adopting Ordinances

1. Steps for Passage of an Ordinance

Below is a step-by-step procedure to follow when introducing an ordinance for consideration by the council.

Step 1. At a regular or special meeting of the governing body, discuss the need for the specific ordinance and what it should accomplish.

Step 2. At the meeting, the mayor or a council or assembly member can request that a draft ordinance be drawn up for consideration at the next meeting.

Step 3. The clerk, a council or assembly member, manager, member of the public, or mayor drafts the ordinance and notifies the clerk when it is ready for the next meeting.

Step 4. The clerk gives the draft ordinance a reference number. This number allows for tracking the ordinance through the adoption process and organized filing of all proposed ordinances that have been considered by the council. A common system of reference numbers has the year that an ordinance was introduced followed by a number representing the total number of ordinances proposed to the council that year. For example, 01-2 refers to the second proposed ordinance introduced in calendar year 2001. The clerk schedules the introduction, or first reading, of the ordinance as an agenda item and posts public notice.

Step 5. The mayor, a member of the governing body, or the manager (for communities that have adopted the manager form of government) introduces the proposed ordinance by reading it in full before the council or reading the title and providing copies of the ordinance for all persons present. Following discussion, the mayor or another member moves that a date be set for a public hearing on the proposed ordinance. Typically, the public hearing is scheduled for the next meeting. The motion must be seconded and approved. The majority of the total membership of the governing body must vote in the affirmative to schedule the public hearing. If the majority do not vote to schedule a public hearing, the ordinance fails. (See [AS 29.25.020\(b\)\(2\)](#))

Step 6. The clerk then posts notice of the public hearing to consider the ordinance on the date set by the governing body. At least five days notice is required for a public hearing held to consider an ordinance. The notice must show the time and place of the meeting, and include a summary of the proposed ordinance. State law ([AS 29.25.020\(b\)\(3\)](#)) [[AS 29.25.020\(b\)\(3\)](#)] requires notice of a public hearing on an ordinance must be “published.” According to state law ([AS 29.71.800\(18\)](#)) [[AS 29.71.800\(18\)](#)] publish “means appearing at least once in a newspaper of general circulation distributed in the municipality.” If there is no newspaper in the municipality that fits this definition, the law says notice of the ordinance and the public hearing can be posted in three public places for at least five days.

Notice of Public Hearing
Sales Tax Ordinance
(As it might appear in a newspaper.)

The City Council of Sand Point shall consider a proposed sales tax ordinance at its next regular meeting on December 8, 2000, at the City Council Chambers at 7:30 p.m. Anyone interested in commenting on the proposed ordinance should attend. The ordinance proposes a levy of a 3% sales tax on all sales within the City. The tax is to be paid by the buyer and collected by the seller. The ordinance proposes fines and other penalties, including imprisonment, for violations of the ordinance.

Step 7. Prior to the public hearing, the clerk prepares copies of the ordinance for interested persons to read. The clerk should have additional copies available at the hearing for those who have not been able to read it prior to the hearing.

Step 8. At the public hearing the mayor or a member of the governing body moves to recess the meeting and convene the public hearing. The mayor, as chair of the public hearing, reads the complete ordinance, or provides copies of the ordinance to all persons present and reads the title of

the ordinance, and receives comments from the public. Comments should be limited to the specific ordinance that is being discussed. Comments must be included in the minutes and kept as a permanent record. After everyone who wants to speak on the ordinance has been heard, the mayor asks for a motion to adjourn the public hearing and return to the meeting.

Step 9. After a motion is made to adopt the ordinance, the mayor calls for discussion of the proposed ordinance. If the governing body wishes to amend the proposed ordinance in response to the comments at the public hearing, it may do so by a majority vote.

Step 10. The mayor then calls for a vote on the proposed ordinance, with or without amendments and the vote of each member is recorded. If a majority of the total membership of the governing body votes in favor of the proposed ordinance, it is adopted and becomes law on the date stated in the ordinance. (NOTE: Title 29 of Alaska Statutes requires that the voters ratify certain ordinances before they can take effect.) If the proposed ordinance fails, the clerk files a copy of the document in the permanent file for failed ordinances.

Step 11. The ordinance must be signed by the mayor, show the date of adoption, and be attested (witnessed and signed) by the clerk. The clerk then enters the approved ordinance in the ordinance file and, if it is a permanent ordinance, it is codified (entered in the table of contents for the municipal code and indexed).

2. How to Amend an Ordinance

To amend an ordinance means to delete, revise, or add words, sentences, or sections to an existing ordinance.

Step 1. Decide which part of the ordinance you want to change. This could be one word, one sentence, or one or more sections of the ordinance. Place the part to be changed in brackets.

Step 2. Write the new word, sentence, or section to replace the part in brackets and bold and underline it. Type the new section into the existing ordinance directly following the old bracketed section.

Step 3. Make copies of the ordinance with the new part following the old section.

Step 4. The procedure for amending or repealing an ordinance is the same as that used to adopt a new ordinance (i.e. introduction, first reading, public hearing, and adoption).

Amending an Ordinance

1. Registration of dogs
2. Licensing of dogs
3. Unlicensed dogs
4. Vicious dogs
5. Female dogs
6. Quarantine
7. Leash law

Section 1. Registration of dogs. Each owner of a dog, or dogs, kept within the corporate limits of the City of Anytown, shall register each dog or dogs, annually, on or before the first day of January of each year with the Anytown City Council or with personnel authorized by the City Council for this duty.

Section 2. Licensing of dogs. Male dogs and spayed females over three months of age shall be licensed at [two (\$2.00)] five \$5.00 dollars per year -- unspayed females over three months of age at [five (\$5.00)] ten (\$10.00) dollars per year, licenses shall cover the calendar year and shall be in the form of a numbered metal tag, issued by the City Council and record thereof kept by the City Council. Licenses shall be secured on a harness or collar on the dog for which they were obtained. All dogs shall be vaccinated for rabies before licensing.

Section 3. Unlicensed dogs. Any dog not wearing a license, whether previously licensed or not, will be impounded in the city's dog impounding area, for [seventy-two (72)] forty-eight (48) hours and the owner fined [ten (\$10.00)] twenty-five (\$25.00) dollars. An impounded dog will be released upon the presentation of a signed, dated receipt that shows payment of the fine and purchase of the proper dog license. Any dog not claimed at the end of seventy-two (72) hours forty-eight (48) hours will be destroyed.

3. How to Repeal an Ordinance

To repeal an ordinance means to remove it, in total, from the city's laws. An ordinance is repealed by the following procedure.

Step 1. Prepare an "ordinance to repeal" that specifically states that its purpose is to repeal the original ordinance, which is identified by title and number.

Step 2. Forward a copy of the ordinance to repeal, along with a copy of the original ordinance that is to be repealed, to the council or assembly for introduction at a meeting. Post copies of both ordinances.

Step 3. The repeal process uses the same steps as those used to adopt an ordinance. The mayor or a member of the governing body introduces the proposed ordinance to repeal at the meeting.

Step 4. Upon passage of an ordinance to repeal an ordinance, file a copy of the ordinance in the current year's ordinance file and make a note in your "code of ordinances" that the original ordinance has been repealed (see the section of this chapter entitled "[What is Codification](#)" that follows).

Step 5. As your code is retyped or reprinted, make adjustments to reflect the repealed provisions.

4. How to Pass Resolutions

Ordinances are laws of the city. Resolutions are specific one-time acts of the governing body often used to authorize certain actions (e.g. submission of a grant application, accepting a contract), or officially express the opinion of the governing body on important issues. While ordinances must be introduced and have a public hearing before final passage, a resolution can be moved and voted on at the same meeting.

Resolutions are passed in basically two steps:

Step 1. The wording of a resolution is drawn up to express the opinion, position or official action of the council based on specific findings. Typically, the mayor or a council member will request that the clerk draw up a resolution and schedule it on the agenda of the next council meeting. Occasionally, the council may move and vote on a resolution that has not been formally drafted; if passed, the mayor directs the clerk to draw up a formal resolution that reflects the intent of the council's action.

Step 2. The resolution is moved and voted on at a council meeting. If passed by a majority vote of the total membership of the body, the resolution is given an identification number and filed in an official resolutions file. The resolution then becomes the official position or opinion of the city on a particular issue.

Only resolutions that are adopted need to be numbered and filed and shown on a listing of resolutions. You do not need a file for proposed resolutions nor do you need to file resolutions for codification.

Resolution to apply for RDA Grant

Resolution Number _____

RESOLUTION

A resolution of the (Name of City) authorizing participation in the Rural Development Assistance Grant (RDA) program.

WHEREAS, the (Name of City) wishes to provide a (Project) for use in the community; and

WHEREAS, this organization is an applicant for a grant in the amount of \$ from the Alaska Department of Community and Economic Development (hereinafter "Department"), under the RDA program authorized by AS 44.47 as amended;

NOW THEREFORE BE IT RESOLVED THAT: the (Chief Administrative Officer) of the (Name of City) is hereby authorized to negotiate and execute any and all documents required for granting and managing funds on behalf of this organization.

The (Chief Administrative Officer) is also authorized to execute any subsequent amendments to said grant agreement to provide for adjustments to the project within the scope of services or tasks, based upon the needs of the project.

PASSED AND APPROVED BY THE _____ (City Council) _____ on _____ (Date) _____, 200__.

IN WITNESS THERETO:

By: _____ (Chief Administrative Officer)
Signature and Title

Attest: _____ (City Clerk)
Signature and Title

Organizing, Numbering, and Codifying Ordinances

1. Establishing the Ordinance Files

Even if the municipality has passed only a few ordinances and resolutions, the materials should be organized into simple ordinance and resolution files. You must always keep a permanent file copy of the original signed ordinance. Following are the steps for setting up the ordinance files.

Step 1. Separate the ordinances that have been adopted from those that failed to pass. Divide these ordinances into smaller groups by year, all 2000 ordinances into one stack, 2001 ordinances into another, and so on.

Step 2. Make two files: one for approved ordinances, 'Approved Ordinances 2000'; and one for proposed ordinances that failed to pass, 'Failed Ordinances 2000'. In a binder, organize all approved ordinances for each year together. Do the same for the proposed ordinances that failed.

Step 3. Make a list of all passed ordinances. Do the same for all proposed but failed ordinances. See the sample [Ordinance Tracking Sheet](#) [insert link to ordinance tracking sheet.xls]

Step 4. Check the approved ordinance file to see which ordinances have not been codified (entered in final form as part of the city code). Make copies of these ordinances and put them in a separate file called 'Ordinances for Codification'.

Step 5. As new ordinances fail, put copies marked "Record Copy Original" in the proposed ordinance file. As new ordinances pass, place the "Record Copy Original" in the approved ordinance file. Make a copy and place it in the Ordinances for Codification file. You should have three files for ordinances brought before the governing body during the year:

- ✴ Proposed ordinance file, 2000.
- ✴ Approved ordinance file, 2000.
- ✴ Ordinances for codification file, 2000 (this is always the current year file).

2. What is Codification

Codification is the procedure of organizing in one place, through a consistent filing and numbering system, the permanent ordinances adopted by the municipality and creating a table of contents and an index for the ordinances. It provides the governing body and members of the public a way to easily find and read what the municipal law is on a given subject.

To accomplish this, a code should:

- * Be arranged by topic in a logical manner under a set of chapters and subchapters.
- * Have a table of contents, an index, and a system of cross-referencing.
- * Have a current supplement that indicates all additions, amendments, and repeals.
- * Be periodically updated to incorporate the changes in the supplement into the code.

The ordinances that are arranged and placed in the code of ordinances are known as "code ordinances." As mentioned earlier, these are considered permanent ordinances. There are also ordinances that deal only with a specific issue on a one-time basis. These ordinances are not considered permanent and are not organized into the code of ordinances. These are known as non-code ordinances. Examples include a budget ordinance for a fiscal year, emergency ordinances, and ordinances for disposing of a specific piece of property.

3. Titling and Numbering the Code

Titling and numbering the code organizes the materials covered by the code in an understandable fashion. The council establishes the rules for numbering and titling. Following is a sample:

Table of Contents

| | |
|----------|--|
| Title 1 | GENERAL PROVISIONS |
| Title 2 | ADMINISTRATION |
| Title 3 | PERSONNEL |
| Title 4 | ELECTIONS |
| Title 5 | REVENUE AND FINANCE |
| Title 6 | ACQUISITION AND DISPOSAL OF MUNICIPAL PROPERTY |
| Title 7 | PLANNING |
| Title 8 | BUSINESS LICENSES AND REGULATIONS |
| Title 9 | HEALTH AND SAFETY |
| Title 10 | STREETS AND OTHER PUBLIC PLACES |
| Title 11 | BUILDING AND CONSTRUCTION |
| Title 12 | UTILITIES |
| Title 13 | (RESERVED) |
| Title 14 | (RESERVED) |
| Title 15 | (RESERVED) |
| Tables | |
| Index | |

Many municipalities have adopted a system using fifteen titles. The following is a summary of titles that might be incorporated into the code of ordinances:

Title 1 "General Provisions" includes sections relating to code adoption, basic data about the municipality, general rules for interpretation, use of the code, and general penalty provisions. This ordinance is commonly known as the General Provisions Ordinance.

Title 2 "Administration" covers general council procedures and the responsibilities of major city officers such as the clerk-treasurer, attorney, and others. It contains provisions for determining and dealing with conflicts of interest. It includes provisions for the establishment of municipal departments such as fire, libraries, parks and recreation, roads, etc. It establishes city boards and commissions and sets bonding requirements for city employees.

Title 3 "Personnel" includes hiring practices, travel and other pay allowances, leave, holidays, disciplinary procedures, and other items of concern to municipal employees.

Title 4 "Elections" includes voter qualifications, election supervision, establishment of an election board of judges, election-day procedures, post-election procedures, and referendum, initiative and recall procedures.

Title 5 "Revenue and Finance" contains provisions for the disbursement of city funds, budget preparation and adoption, management of city funds, purchasing, financial audits, and taxation (if the city exercises taxing authority).

Title 6 "Acquisition and Disposal of Municipal Property" covers the acquisition and disposal of real (land) and personal (trucks, machines, etc.) property, as well as leasing of municipal lands.

Title 7 "Planning" covers the provisions concerning the planning and zoning commission, comprehensive plan and zoning and platting. (This title can be omitted if the city does not exercise planning and zoning powers.)

Title 8 "Business Licenses and regulations" contains the ordinances that apply to businesses. Business license requirements, taxicab regulations, and closing hour requirements are examples of ordinances that may be included.

Title 9 "Health and Safety" contains all provisions relating to this subject, including ordinances defining nuisances, firearms control, vehicle regulations, control of animals, alcohol and drugs, and sanitation ordinances.

Title 10 "Streets and Other Public Places" contains all ordinances regarding the conduct of activity on public streets and other locations such as parks, municipal buildings, etc.

Title 11 "Building and Construction" contains ordinances dealing with requirements for new buildings in the municipality, such as building codes and building permits.

Title 12 "Utilities" (for communities owning and/or operating their own utility systems) contains ordinances regarding the management, operation, and financing of public utilities.

Title 13 may be "reserved" for future use; however, municipalities with education powers (first class cities or boroughs) would have an "Education" title, which establishes the school district, school board, powers of the school board, and the relationship of the city to the school board.

Title 14 may be "reserved" for future use.

Title 15 may be "reserved" for future use.

Some of the above titles may be unnecessary for your municipality or listed in a different order. If, however, a decision is made to eliminate some of the topics identified for the 15 titles, reserve at least enough titles now so that ordinances that cover new topics will have a place to fit into the code when they are developed in the future.

4. Codifying Your Ordinances

If your municipality has not yet codified its ordinances you will need to do that now. In addition to the practical reasons for codifying your ordinances, there are significant legal and financial reasons for doing so. State law ([AS 29.25.050\(b\)](#)) requires that every municipality codify its ordinances within three years of incorporation ([AS 29.25.050\(b\)](#)). Codification is also a statutory requirement to qualify for a minimum municipal entitlement under the State Revenue Sharing Program ([AS 29.60.290](#)). If your municipality has not codified its ordinances, the following process may be used to organize and codify the ordinances.

Step 1. Determine the system of titling and numbering to use for your code. Various types of numbering systems can be used to make a code easy to use. A popular system is the State Statute Method. Like the Alaska State Statutes, this method organizes ordinances by specific titles. These titles are broken down into chapters and sections. For example, "Title 12, Chapter 29, Section 1" or "Municipal Ordinance 12.20.010" refers to the first topic or section in the twentieth chapter of the twelfth title of the municipal code of ordinances. A method that breaks an ordinance down into specific parts is useful because ordinances often have many distinct provisions. For example, when preparing for a runoff election, a city clerk can review the entire procedure for runoff elections or can refer to any individual step as necessary. Many municipalities use this method because it allows the reader to pick out the specific sections of the law that apply to a situation.

Step 2. Separate all adopted ordinances by subject. This will allow you to determine the most recent ordinance on any given subject.

Step 3. Sort the groups of ordinances that fit with each title. Use your best judgment and decide which title would be most appropriate for each subject. Remember that one of the purposes of codification is to make the municipal laws easy to find.

Step 4. Find the copy of your ordinances on your computer or retype the ordinance(s) currently in effect, dropping the ordinance tracking number, (the number system discussed in section "Steps for Passage of an Ordinance" used to track the ordinance during the adoption process, e.g. 01-07), and substituting the title and numbering system (for example, the State Statute Method) which has been decided upon for your code. Note: [Department of Community and Economic Development](#) (DCED) [insert link to DCED regional office directory] may have an electronic copy of your

ordinances, so if you are having trouble locating them, contact your local DCED office before retyping them.

Step 5. Find the table of contents on your computer or retype it using the established title and numbering format.

Step 6. Create or update the index, to cross-reference the new information. This is a tedious, but important, step to make the code usable and accessible. The best method of indexing is by subject. Usually the index will appear in the back of the code and will describe by title and number where a specific subject is dealt with in the code. Without an index, it is harder to find what the law is on a specific subject.

Step 7. Present the completed code to the governing body for review and official adoption.

5. Supplementing (Updating) Your Code

As new ordinances amend or repeal portions of the code, or add new sections to the code, are passed, it becomes necessary to update the code. This is generally done in a two-part process. First, the changes are periodically gathered into a supplement to the code, which shows the changes that have been made from the original code. Second, at longer intervals (for example, six months) the changes are incorporated into the code itself. The governing body may determine the periods over which these activities take place; however, updating must be weighed against the public's need to know the law and the municipality's duty to inform the public.

Ordinance Enforcement

1. Constitutional and Statutory Guidelines

A Municipal ordinance cannot be enforced if it exceeds the authority granted by the state through its constitution or statutes. The Alaska State Constitution and the Alaska Statutes provide a broad range of powers to local governments that may be implemented through local ordinances.

A municipal ordinance generally cannot deprive its citizens of individual rights guaranteed by the state or federal constitution; therefore, ordinances may not:

- * Diminish the privileges and immunities of citizens.
- * Deprive a person of life, liberty, or property without due process of law.
- * Take a person's property without just compensation.
- * Deny any person equal protection of the laws.
- * Discriminate against any person or group because of race, religion, or sex.
- * Impair the obligations of contracts.
- * Directly interfere with interstate or foreign commerce.

These are just a few examples. You should get qualified legal advice if you have questions about your municipal laws.

2. Policing

Police power is essentially the enforcement of local laws. ("The inherent power of a government to exercise reasonable control over persons and property in the interest of the general security, health, safety, morals, and welfare.") Alaska Statute ([AS 29.35.010\(7\)](#)) provides that a municipality has the power to "enforce an ordinance and prescribe a penalty for violation of an ordinance."

Under state law, [AS 29.20.250](#) and [AS 29.20.500\(2\)](#), the mayor or city manager is the chief law enforcement officer. A local police force or a Village Public Safety Officer may assist with this; however, if one is not available, the mayor or manager are peace officers as defined in [AS 01.10.060\(a\)\(7\)\(F\)](#) and are authorized to issue citations and take actions necessary to maintain the public peace. The Local Government Handbook, [Chapter 5, Section 3](#) "Maintaining Public Safety" [insert link to LGH Chap 5, Sec 3] discusses the policing powers of a local government in more detail.

3. Penalties

According to [AS 29.25.070\(a\)](#) a local government may prescribe punishments for "violations" of local ordinances not to exceed a fine of \$1,000.00 and imprisonment of 90 days,). This statute also provides that a violation that cannot result in jail or the loss of a valuable license, may allow disposition without court appearance and authorizes a municipality to establish a fining schedule. The Alaska legislature has determined that a fine of \$300.00 for a violation of a municipal traffic law is an infraction that does not entitle the person cited to a court appointed attorney or trial by jury ([AS 28.40.050](#)). It may be that a municipality can avoid the obligation to pay for a court appointed attorney for ordinance violations if the penalty is just a small fine.

You should discuss penalties with your municipal attorney before enacting a penalties ordinance. If penalties for local ordinances are severe enough to constitute a criminal offense, the accused is entitled to a jury trial and publicly-financed counsel, meaning the municipality could be required to bear the cost of providing an attorney for the accused. Criminal prosecutions are those that are punishable by jail terms, loss of a valuable license, or a fine large enough to indicate criminality.

(Note: These penalties may be imposed only if copies of the ordinances are made available to the public at no more than cost.)

Enforcement and the State Judicial System

The Alaska Constitution establishes the Alaska Courts System. The constitution provides that there is a supreme court and superior court and authorizes the legislature to create other courts by law. In addition to those courts created by the constitution, the legislature has created district and appellate courts. These are the only bodies explicitly authorized to hear criminal and non-criminal cases. In this arrangement, district judges and magistrates, have the jurisdiction for crimes involving violations of an ordinance. Magistrates or judges usually hear cases and enter judgments concerned with violations of municipal ordinances.